



# FORT SILL LEGAL ASSISTANCE

## Incapacity



Mental and physical disability can happen to anyone, old or young. However, there are many legal tools to ensure that you and your loved ones can take of financial matters in the event of an expected or unexpected incapacity or disability.

**IMPORTANT NOTE:** *Many of these options, including any Power of Attorney documents, require that the person executing the documents be competent and over the age of 18 to execute these documents. If you or a loved one is already disabled or incompetent, these documents can no longer be created and executed. Discuss with your Legal Assistance Attorney options for your particular situation.*

### 1. Power of Attorney

A Power of Attorney is a legal document that gives someone power to act on your behalf. The person who receives this power is known as an “agent” or “attorney-in-fact.” You can grant different types of powers to your agent. A General Power of Attorney grants significant powers. For example, the agent can sign on your behalf, enter into agreements under your name, and cause third-parties to take certain actions. You can also make a Specific Power of Attorney, which allows your agent to take actions only regarding matters that you specify, such as selling a car. Powers of Attorney, unless the document is “durable,” expire when you become incompetent or incapacitated.

Another type of Power of Attorney is a Durable Power of Attorney for Financial Matters. This document authorizes the person(s) you have named as your attorney(s)-in-fact to act for you in conducting your business and making certain personal decisions. It differs from a regular Power of Attorney in that it does not expire once you become incompetent or incapacitated.

You can also create a Medical Power of Attorney. This document is also a durable Power of Attorney, and delegates health care decisions to a chosen agent in the event of the principal’s (the one who signs the document) disability or incapacity. While not a Power of Attorney, you can also create a Living Will or Advance Medical Directive. This document allows you to make decisions regarding certain end of life medical treatments in advance.

#### a. Why should I get a Power of Attorney?

If you execute these documents before becoming incapacitated, then your agent can take care of certain matters when you are no longer able to. This can be helpful, but also dangerous. It is important you pick someone trustworthy and competent to handle your affairs.

#### b. How do I get a Power of Attorney?

The Legal Assistance Office can draft a Power of Attorney that suits your needs. Most powers of attorney can be handled by our staff at the front desk. For more particular powers of attorney, such as a Medical or Durable Power of Attorney, you should speak to a Legal Assistance Attorney.

### 2. Guardianship

Another option is to apply to the court for guardianship of the incapacitated person. A guardian is appointed by the court to take care of certain matters for the incapacitated person or “ward,” which can include financial, medical and legal matters.

The court will choose a guardian for the incapacitated person, and court actions involve fees and costs. You can discuss this option with your Legal Assistance Attorney. The Legal Assistance office can provide advice and referrals regarding guardianship issues, but cannot represent you in court.

### **3. U.S. Department of Veterans Affairs (VA): Fiduciary**

If a VA beneficiary becomes incompetent or unable to manage his or her benefits, the VA can appoint a fiduciary. Any individual appointed as a VA fiduciary is responsible for managing the beneficiary's VA income and ensuring the beneficiary's just debts are paid.

To become a fiduciary for a family member or friend, submit a request with the beneficiary's name and VA file number, and your name and contact information to the VA regional office nearest you.

To find out more information, contact the Veterans Administration:

<http://www.benefits.va.gov/fiduciary/fiduciary.asp>

Phone: (888) 407-0144

Regional Office for KS, ND, NE, OK, SD, TX:

Lincoln Fiduciary Hub

PO Box 5444

Lincoln, NE 68505-5444

### **4. Social Security Administration (SSA): Representative Payee**

If a SS beneficiary becomes incompetent or unable to manage his or her benefits, the SS can appoint a representative payee. A payee is responsible for everything related to benefits that a capable beneficiary would do for himself or herself.

To become a representative payee for a family member or friend, call the SSA to make an appointment.

To find out more information, contact the Social Security Administration:

<http://www.ssa.gov/payee/index.htm>

Phone: 1-800-772-1213 (TTY 1-800-325-0778)

Lawton Office: 1610 SW Lee Blvd, Lawton, OK 73501 (866-931-2732)

### **5. Commissary Privileges**

If you or a loved one has difficulty shopping at the Commissary and want to authorize another to shop on your behalf, you can apply with the local military installation to designate an agent. To authorize an agent, a commissary patron has to provide proof of age, disability, illness, or infirmity to an installation commander, and designate the person who will act as the agent. Some installations may require additional information.

To find out more information, contact your local Commissary:

[https://www.commissaries.com/documents/contact\\_deca/faqs/agent\\_authorization.cfm](https://www.commissaries.com/documents/contact_deca/faqs/agent_authorization.cfm)

Fort Sill Commissary:

1719 Macomb Road

Fort Sill, OK 73503-7400

Store Phone: (580)442-2305/3601

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If you have questions concerning the information in this fact sheet, please call the Legal Assistance Office (580) 442-5058 or (580) 442-5059. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300-1600. The Fort Sill Legal Assistance Office is located on the 4<sup>th</sup> floor of Building 4700, Hartell Hall on Mow-Way Road.